

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
HARRISONBURG DIVISION

UNITED STATES OF AMERICA,)
) Criminal No. 5:21-cr-23
v.)
)
RICHARD E. MOORE)

**GOVERNMENT’S FOURTH NOTICE REGARDING
INTENT TO INTRODUCE SELF-AUTHENTICATING
RECORDS AT TRIAL UNDER RULES 902(11) AND 902(4)**

Now comes the United States and gives notice of its intent to introduce certain records by certification pursuant to Rules 803(6), 902(11), and 902(4) of the Federal Rules of Evidence.¹ The records, as described below, were previously provided to the defendant in the course of discovery.

Exhibit 1 to this notice contains a Rule 902(11)-compliant certificate executed by a custodian at ADP, Inc. on January 15, 2024, which covers payroll records from 2021 and 2022. The government has previously produced these records to the defendant as Bates MOORE_USAPROD_0500808 through MOORE_USAPROD_0503052 and MOORE_USAPROD_0574189 through MOORE_USAPROD_0574212.

The government also gives notice that it intends to offer, as impeachment evidence, a certified copy of Richard Moore’s conviction in Augusta County Circuit Court, which contains a

¹ Rule 902(11) provides in pertinent part for the self-authentication of “a domestic record of regularly conducted activity that would be admissible under Rule 803(6) if accompanied by a written declaration of its custodian or other qualified person . . . certifying that the record: (A) was made at or near the time of the occurrence of the matters set forth by, or from information transmitted by, a person with knowledge of those matters; (B) was kept in the course of the regularly conducted activity; and (C) was made by the regularly conducted activity as a regular practice.”

Rule 902(4) provides in pertinent part for the self-authentication of “[a] copy of an official record — or a copy of a document that was recorded or filed in a public office as authorized by law — if the copy is certified as correct by: (A) the custodian or another person authorized to make the certification.”

certification pursuant to Rule 902(4) of the Federal Rules of Evidence. On December 21, 2023 perjury, the Augusta County Circuit Court found Mr. Moore guilty to the felony crime of perjury, in violation of Virginia Code § 18.2-434. The trial order, conviction order, and sentencing order in that case are certified as correct copies of an official record by a deputy clerk of the Augusta County Circuit Court. The certified conviction order is attached as Exhibit 2.

The United States previously provided notice on November 13, 2023 that it intended to offer as impeachment evidence a certified copy of Richard Moore's August 21, 2023 conviction in Louisa County Circuit Court for the felony crime of uttering a forged document to the prejudice of another's right, in violation of Virginia Code § 18.2-172. The certified conviction and sentencing order in that case is attached as Exhibit 3.

The government also gives notice that it intends to offer Internal Revenue Service ("IRS") records containing certifications pursuant to Rule 902(4) and/or 902(11) of the Federal Rules of Evidence. The government has previously provided the defendant with many—though not all—of the IRS records described below during the course of discovery. Because the certifications for the IRS records are voluminous (consisting of several hundred pages), the government has not attached all of them to this notice, but it has attached an example of one such certification at Exhibit 4. The certified IRS records are as follows:

- Nexus Services' Forms 941 (Employer's Quarterly Federal Tax Return) for quarters ending June 30, 2021 through December 31, 2022;
- A Nexus Services' Form 941X (Adjusted Employer's Quarterly Federal Tax Return) for the quarter ending December 31, 2018; and
- Nexus Services' Form 941 IRS transcripts for employment tax quarters ending March 31, 2021 through December 31, 2022.

Finally, the government gives notice that it intends to offer records of Nexus Services as certified business records, pursuant to Rule 902(11). The government is in process of obtaining a signed certification for the records that Nexus Services produced earlier this year, which the

government has previously produced to the defendant as Bates MOORE_USAPROD_0514090 through MOORE_USAPROD_0526347 and MOORE_USAPROD_0528343 through MOORE_USAPROD_0566418. As soon as the government receives the signed certification form, it will provide a copy to the Defendant.²

Pursuant to Rules 803(6), 902(11), and 902(4) of the Federal Rules of Evidence, the government will offer the above exhibits as self-authenticating records of a regularly conducted activity or as copies of official records.

This 21st day of November, 2024.

Respectfully submitted,

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² The government notes that the as-yet-uncertified records belong to the company owned (or formerly owned) by the Defendant and his spouse. The records have yet to be certified despite several requests from the government that a custodian from Nexus Services sign the form.

CERTIFICATE OF SERVICE

I do hereby certify that I have this date electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to all counsel of record.

This 21st day of November, 2024.

/s/ William M. Montague
William M. Montague
Trial Attorney
U.S. Department of Justice
Tax Division